

STATE OF ILLINOIS
IN PROCEEDINGS BEFORE THE
ILLINOIS COMMERCE COMMISSION

RECEIVED
SEP 26 2001

Illinois Commerce Commission
RAIL SAFETY SECTION

The Burlington Northern and Santa Fe Railway Company,
Petitioner,

v.

T01-0028

Tamalco Township, Bond County, Illinois; Pleasant Mound Township, Bond County Illinois; Bond County, Illinois; and State of Illinois, Department of Transportation,
Respondents.

Petition seeking a determination from the Illinois Commerce Commission whether the warning devices at the public grade crossing located at the tracks of The Burlington Northern and Santa Fe Railway Company ("BNSF") and TR 247 (Main Street) in Tamalco Township, Bond County, Illinois, Milepost 102.33, DOT No. 069316E should be upgraded to automatic flashing light signals with gates and constant warning time circuitry; whether the public grade crossing located at the intersection of the tracks of BNSF and Township Road TR 238 in Tamalco Township, Bond County, Illinois; Milepost 102.21, DOT No. 069318T should be closed; and, a connecting road constructed on the east side of the tracks and right-of-way of BNSF between Township Road TR247 (Main Street) and TR238, with any such cost be borne by the parties in accordance with law and that a substantial portion of the cost to be borne by the Grade Crossing Protection Fund.

And

Petition seeing a determination from the Illinois Commerce Commission whether the warning devices at the public grade crossing located at the tracks of BNSF and Township Road TR 199 in Tamalco Township, Bond County, Milepost 98.65, DOT No. 069156T should be upgraded to automatic flashing light signals and gates with constant warning time circuitry; the public grade crossing located at the intersection of Township Road TR 232 in Tamalco Township, Bond County, Illinois, Milepost 98.59, DOT No. 06910H should be closed; a connecting road constructed on the east side of the tracks and right-of-way of BNSF connecting Township Road TR 199, Township Road TR 326 (Second Street) and TR232a; whether the warning devices at the grade crossing located at the intersection of TR 326 (Second Street) and the tracks of BNSF, Milepost 98.31 should be upgraded to automatic flashing light signals and gates; the public at grade crossing at the intersection of Township Road TR 232a and the tracks of BNSF, Milepost 98.23, DOT No. 069158G should be closed; and a connecting road west of BNSF's track and right-of-way extending High Street to the north to township Road TR232a with any such costs to be borne by the parties in accordance with law and that a substantial portion of any such costs be borne by the Grade Crossing Protection Fund.

APPLICATION FOR REHEARING

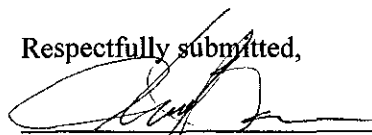
Comes now the County of Bond, a body politic, of the State of Illinois, by Bond County State's Attorney, Christopher J.T. Bauer, and pursuant to 80 Ill. Adm. Code 200.880, does hereby make application for rehearing in the aforementioned cause and in support thereof states as follows:

1. That on or about August 21, 2001, the Illinois Commerce Commission adopted an Order, (hereinafter "The Order") proposed by the Honorable Rick Korte, Chief Hearing Examiner which, in pertinent part, approved the closing of a railroad crossing located on the south boundary line of the Southeast Quarter of Section 33, Pleasant Mound Township, Bond County, Illinois which is particularly described in said Order as "TR-232A (Sixth Street)(DOT069158G, Milepost 98.23).

2. That a rehearing in this cause is appropriate for the following reasons:
 - A. That the Order adopted by the Commission contains erroneous findings and conclusions regarding the public safety concerns regarding the Sixth Street crossing.
 - B. The Hearing Officer and Commission failed to give appropriate weight to the comments of the non-party participants who appeared at the May 31, 2001 hearing.
 - C. That the Hearing Officer and Commission failed to give appropriate weight to the position of the area residents with regard to the safety of the Sixth Street crossing.
3. The following additional evidence would be presented to the Commissioner in the event of a rehearing:
 - A. That the majority of the residents and owners of real estate adjacent to the Sixth Street crossing is overwhelming opposed to this closing; and
 - B. That the three non-party participants who appeared before the Hearing Officer on May 31, 2001, own real estate immediately adjacent to this crossing and their description as being "Greenville residents" and the assertion that they resided some 15 miles away from this crossing are misleading and tend to inappropriately mitigate the relevance of their opinions and knowledge of the matter.
4. Such evidence was not previously introduced at the May 31, 2001, hearing for the following reasons:
 - A. Notice of the May 31, 2001 hearing was "served" via U.S. Mail upon the Bond County Highway Superintendent as opposed to the Chairman of the County Board or the County Clerk as would be required by the Illinois Civil Practice Act and as a consequence, the governing body of the County, the County Board, had no actual notice of this proceeding.
 - B. The Hearing Officer erroneously assumed that the non-party participants who spoke at the May 31, 2001, were residents of Greenville, that they had no relevant interest or direct knowledge of the conditions of the Sixth Avenue crossing.

WHEREFORE, the County of Bond respectfully prays for a rehearing on this matter and for such other, further or different relief as may be deemed appropriate.

Respectfully submitted,

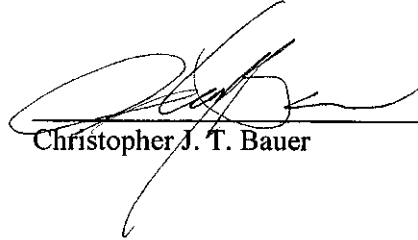


Christopher J. T. Bauer
Bond County State's Attorney

CERTIFICATION

Under penalties of perjury as provided by law, pursuant to Section 1-109 of the Illinois Code of Civil Procedure, the undersigned certifies the statements set forth in this instrument are true and correct except as to matters therein stated to be on information and belief, and as to such matters, the undersigned certifies as aforesaid that the undersigned verily believes the same to be true.

Dated this 20 day of September, 2001.



Christopher J. T. Bauer

Christopher J.T. Bauer
Bond County State's Attorney
200 West College Avenue
Greenville, IL 62246
6215741

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PROOF OF SERVICE

The undersigned, Nancy L. Wernle, Secretary to Christopher J. T. Bauer, Bond County State's Attorney, in the above entitled cause hereby certifies that she did on September 28, 2001, mail by depositing in the United State Post Office mailbox in Greenville, Illinois, postage fully prepaid, plainly addressed to the parties listed below, a copy of the Application for Rehearing:

Mr. James Slifer, Director
Division of Highways
ILL. Dept. of Transportation
2300 S. Dirksen Parkway
Springfield, IL 62764

Burlington Northern & Santa Fe Railway Co.
CT Corporation
208 S. LaSalle Street
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Mr. W. Douglas Werner
Burlington Northern & Santa Fe Railway Co.
P.O. Box 961039
Fort Worth, TX 76161-0039

Mr. Raymond Hauschild
Bond County Highway Engineer
R.R. 4, Box 64
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118 S. Clinton St., Ste. 700
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Mr. Larry Edwards
Road Commissioner
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R.R. 1, Box 143
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2650 Lou Menk Drive
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Mr. Jeff Tompkins
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902 Bonanza Road
Smithboro, IL 62284

Mr. Russell Metzger
1647 Hookdale Avenue
Keyesport, IL 62253


Nancy L. Wernle, Secretary to
Christopher J. T. Bauer
Bond County State's Attorney